

SENATE BILL NO. 107

BY SENATOR CHEEK AND REPRESENTATIVE MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact Chapter 10 of Title 29 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 29:781 through 792, and to repeal R.S. 29:735.2(A), relative to emergency
4 volunteer health practitioners; to provide for definitions; to provide for the regulation
5 of health services during a declared emergency; to provide for volunteer health
6 practitioner registration systems; to provide for administrative sanctions; to provide
7 for a limitation of liability for volunteer health practitioners; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 10 of Title 29 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 29:781 through 792, is hereby enacted to read as follows:

12 **CHAPTER 10. UNIFORM EMERGENCY VOLUNTEER**

13 **HEALTH PRACTITIONERS ACT**

14 **§781. Short title**

15 **This Chapter may be cited as the "Uniform Emergency Volunteer**
16 **Health Practitioners Act."**

17 **§782. Definitions**

18 **As used in this Chapter the following words, terms, and phrases shall**
19 **have the meaning ascribed to them in this Section, unless the context clearly**
20 **indicates a different meaning:**

21 **(1) "Affiliate" means a person that directly or indirectly through one or**
22 **more intermediaries, controls, or is controlled by, or is under common control**
23 **with, another person.**

24 **(2) "Declared emergency" means an event or condition that constitutes**
25 **an emergency as defined in R.S. 29:723 or 727(D), or a public health emergency**
26 **as defined in R.S. 29:762, and which has been the subject of an emergency**
27 **declaration. The services authorized by this Chapter may be continued for up**

1 to thirty days following termination of a public health emergency if the
2 Department of Health and Hospitals deems that the need for such services
3 continues to exist.

4 (3) "Disaster preparedness or relief organization" means an entity that
5 provides emergency preparedness services or disaster relief services that
6 include health services provided by volunteer health practitioners, and that
7 meets either of the following:

8 (a) Is designated or recognized as a provider of those services pursuant
9 to a disaster response and recovery plan adopted by an agency of the federal
10 government or by the Governor's Office of Homeland Security and Emergency
11 Preparedness or the Department of Health and Hospitals.

12 (b) Regularly plans and conducts its activities in coordination with an
13 agency of the federal government or with the Governor's Office of Homeland
14 Security and Emergency Preparedness or the Department of Health and
15 Hospitals.

16 (4) "Emergency declaration" means a declaration of emergency issued
17 by the governor under the authority of R.S. 29:724 or R.S. 29:766 or by any
18 other official under the authority of R.S. 29:727(D).

19 (5) "Emergency Management Assistance Compact" means the interstate
20 compact approved by the United States Congress by Public Law No. 104-321,
21 110 Stat. 3877.

22 (6) "Entity" means a person other than an individual.

23 (7) "Health facility" means an entity licensed under the laws of this or
24 another state to provide health services.

25 (8) "Health practitioner" means an individual licensed under the laws
26 of this or another state to provide health services.

27 (9) "Health services" means the provision of treatment, care, advice or
28 guidance, or other services, or supplies, related to the health or death of
29 individuals or human populations, to the extent necessary to respond to a
30 declared emergency, including:

1 (a) The following, concerning the physical or mental condition or
2 functional status of an individual or affecting the structure or function of the
3 body:

4 (i) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or
5 palliative care.

6 (ii) Counseling, assessment, procedures, or other services.

7 (b) Sale or dispensing of a drug, a device, equipment, or another item to
8 an individual in accordance with a prescription.

9 (c) Funeral, cremation, cemetery, or other mortuary services.

10 (10) "Host entity" means an entity operating in this state which uses
11 volunteer health practitioners to respond to an emergency.

12 (11) "License" means authorization by a state to engage in health
13 services that are unlawful without the authorization. The term includes
14 authorization under the laws of this state to an individual to provide health
15 services based upon a national certification issued by a public or private entity.

16 (12) "License in good standing" or "licensed and in good standing"
17 means a current, unrestricted license or other authority issued by the
18 professional licensing authority of another state to provide the health services
19 sought or to be rendered in this state during a declared emergency.

20 (13) "Person" means an individual, corporation, business trust, trust,
21 partnership, limited liability company, association, joint venture, public
22 corporation, government or governmental subdivision, agency, or
23 instrumentality, or any other legal or commercial entity.

24 (14) "Secure registration card" means a secure form of identification
25 which meets the following criteria:

26 (a) Is built on nationally recognized standards-based security features
27 and enrollment vetting and issuance processes.

28 (b) Contains the name of the health practitioner and his license status
29 and may contain other verified information.

30 (c) Has been issued or sponsored by a licensing authority of any state or

1 by a disaster preparedness or relief organization in conjunction with a
2 registration system that complies with R.S. 29:785.

3 (15) "Scope of practice" means the extent of the authorization to provide
4 health services granted to a health practitioner by a license issued to the
5 practitioner in the state in which the principal part of the practitioner's services
6 are rendered, including any conditions imposed by the licensing authority.

7 (16) "State" means a state of the United States, the District of Columbia,
8 Puerto Rico, the United States Virgin Islands, or any territory or insular
9 possession subject to the jurisdiction of the United States.

10 (17) "State licensing authority" means a professional licensing board,
11 agency, or commission with authority to license health practitioners in this state
12 to provide the health services proposed to be provided by a volunteer health
13 practitioner in response to a declared emergency, and which shall have
14 administrative disciplinary jurisdictional authority over volunteer health
15 practitioners with respect to their offering or provision of such health services
16 in the state.

17 (18) "Volunteer health practitioner" means a health practitioner who
18 provides health services in this state for a host entity, whether or not the
19 practitioner receives compensation for those services so long as the person who
20 receives the health services does not pay and is not asked to pay directly or
21 indirectly for the health services. The term does not include a practitioner who
22 receives compensation pursuant to a preexisting employment relationship with
23 a host entity or affiliate which requires the practitioner to provide health
24 services in this state, unless the practitioner is not a resident of this state and is
25 employed by a disaster preparedness or relief organization providing services
26 in this state while an emergency declaration is in effect. The term does not
27 include a practitioner who only provides veterinary services.

28 §783. Applicability to volunteer health practitioners

29 This Chapter applies to volunteer health practitioners registered with a
30 registration system that complies with R.S. 29:785 and who provide health

1 services in this state for a host entity while an emergency declaration is in effect.

2 §784. Regulation of services during emergency

3 A. While an emergency declaration is in effect, the Department of Health
4 and Hospitals may limit, restrict, or otherwise regulate:

5 (1) The duration of practice by volunteer health practitioners.

6 (2) The geographical areas in which volunteer health practitioners may
7 practice.

8 (3) The types of volunteer health practitioners who may practice.

9 (4) Any other matters necessary to coordinate effectively the provision
10 of health services during the emergency.

11 B. An order issued pursuant to Subsection A of this Section may take
12 effect immediately and shall be promulgated as an emergency rule as provided
13 in R.S. 49:953.

14 C. A host entity that uses volunteer health practitioners to provide health
15 services in this state shall:

16 (1) Consult and coordinate its activities with the Department of Health
17 and Hospitals, to the extent practical, to provide for the efficient and effective
18 use of volunteer health practitioners.

19 (2) Verify the identity of the volunteer health practitioner.

20 (3) Confirm that the volunteer health practitioner is registered with a
21 registration system that complies with R.S. 29:785.

22 (4) Confirm that the registration system has verified the accuracy of
23 information concerning whether a health practitioner meets the requirements
24 of R.S. 29:786.

25 (5) Confirm that the volunteer health practitioner has not had a license
26 revoked, suspended or placed under the terms, conditions or restrictions in any
27 state according to the National Practitioner Data Bank which shall be queried
28 before the volunteer health practitioner is permitted to begin work or as soon
29 thereafter as is possible under the circumstances.

30 (6) Notify the appropriate state licensing authority of any adverse action

1 against the volunteer's privileges.

2 (7) Comply with any laws relating to the management of emergency
3 health services.

4 D. A host entity is not required to use the services of a volunteer health
5 practitioner even if the practitioner is registered with a registration system that
6 indicates that the practitioner holds a license in good standing.

7 E. A secure registration card shall satisfy the requirements of
8 Paragraphs (C)(2), (3), and (4) of this Section and may be used for verification
9 of credentials by a host entity while an emergency declaration is in effect.

10 §785. Volunteer health practitioner registration systems

11 A. To qualify as a volunteer health practitioner registration system, a
12 system shall:

13 (1) Accept applications for the registration of volunteer health
14 practitioners before or during an emergency.

15 (2) Include information about the license in good standing of health
16 practitioners which is accessible by authorized persons.

17 (3) Be capable of verifying the accuracy of information concerning
18 whether a health practitioner meets the requirements of R.S. 29:786.

19 (4) Meet one of the following conditions:

20 (a) Be an emergency system for advance registration of volunteer
21 healthcare practitioners established by a state and funded through the
22 Department of Health and Human Services under Section 3191 of the Public
23 Health Services Act, 42 U.S.C. 247d-7b.

24 (b) Be a local unit consisting of trained and equipped emergency
25 response, public health, and medical personnel formed pursuant to Section 2801
26 of the Public Health Services Act, 42 U.S.C. 300hh.

27 (c) Be operated by or under the direction of one of the following:

28 (i) A disaster preparedness or relief organization.

29 (ii) A state licensing authority.

30 (iii) A national or regional association of licensing boards or health

1 practitioners.

2 (iv) A health facility that provides comprehensive inpatient and
3 outpatient health-care services, including, but not limited to, a tertiary care and
4 teaching hospital.

5 (v) A governmental entity.

6 (d) Be designated by the Department of Health and Hospitals as a
7 registration system for purposes of this Chapter.

8 B. Upon request of the Governor's Office of Homeland Security and
9 Emergency Preparedness, the Department of Health and Hospitals, a state
10 licensing authority, or a host entity in this state or a similarly authorized entity
11 in another state, a registration system located in this state shall notify the entity
12 of the identities of the volunteer health practitioners registered with it and
13 whether the practitioners are licensed and in good standing.

14 §786. Recognition of volunteer health practitioners licensed in other states

15 A. While an emergency declaration is in effect, a volunteer health
16 practitioner, registered with a registration system that complies with R.S.
17 29:785 and licensed and in good standing in the state upon which the
18 practitioner's registration is based, may practice in this state to the extent
19 authorized by this Chapter as if the practitioner were licensed in this state.

20 B. A volunteer health practitioner qualified under Subsection A of this
21 Section is not entitled to the protections of this Chapter and shall not be
22 authorized to practice in this state if any license of the practitioner is suspended,
23 revoked, or subject to an agency order limiting or restricting practice privileges,
24 or has been voluntarily terminated under threat of sanction.

25 C. Each health practitioner who provides health services in this state
26 pursuant to authority of the Emergency Management Assistance Compact shall
27 register with a registration system that complies with R.S. 29:785 as a volunteer
28 health practitioner authorized to provide health services in this state pursuant
29 to the Emergency Management Assistance Compact.

30 §787. No effect on credentialing and privileging

1 A. In this Section the following terms shall have the following meanings:

2 (1) "Credentialing" means obtaining, verifying, and assessing the
3 qualifications of a health practitioner to provide treatment, care, or services in
4 or for a health facility.

5 (2) "Privileging" means the authorizing by an appropriate authority of
6 a health practitioner to provide specific treatment, care, or services at a health
7 facility subject to limits based on factors that include license, education,
8 training, experience, competence, health status, and specialized skill.

9 B. This Chapter does not affect credentialing or privileging standards of
10 a health facility and does not preclude a health facility from waiving or
11 modifying those standards while an emergency declaration is in effect.

12 §788. Provision of volunteer health services; administrative sanctions

13 A. Subject to Subsections B and C of this Section, a volunteer health
14 practitioner shall adhere to the scope of practice for a similarly licensed
15 practitioner established by the licensing provisions, practice acts, or other laws
16 of this state.

17 B. Except as otherwise provided in Subsection C of this Section, this
18 Chapter does not authorize a volunteer health practitioner to provide services
19 that are outside the practitioner's scope of practice, even if a similarly licensed
20 practitioner in this state would be permitted to provide the services.

21 C. The Department of Health and Hospitals, or a state licensing
22 authority may modify or restrict the health services that volunteer health
23 practitioners may provide pursuant to this Chapter. An order under this
24 Subsection may take effect immediately, without prior notice or comment, and
25 is not a rule within the meaning of R.S. 49:950 et seq.

26 D. A host entity may restrict the health services that a volunteer health
27 practitioner may provide pursuant to this Chapter.

28 E. A volunteer health practitioner shall not be deemed to engage in
29 unauthorized practice unless the practitioner has reason to know of any
30 limitation, modification, or restriction under this Section or that a similarly

1 licensed practitioner in this state would not be permitted to provide the services.

2 A volunteer health practitioner shall be deemed to know of a limitation,
3 modification, or restriction or that a similarly licensed practitioner in this state
4 would not be permitted to provide a service if either of the following conditions
5 is met:

6 (1) The practitioner knows the limitation, modification, or restriction
7 exists or that a similarly licensed practitioner in this state would not be
8 permitted to provide the service.

9 (2) From all the facts and circumstances known to the practitioner at the
10 relevant time, a reasonable person would conclude that the limitation,
11 modification, or restriction exists or that a similarly licensed practitioner in this
12 state would not be permitted to provide the service.

13 F. In addition to the authority granted by the laws of this state other than
14 this Chapter to regulate the conduct of health practitioners, a state licensing
15 authority for due cause under its applicable laws and rules:

16 (1) May impose administrative sanctions upon a health practitioner
17 licensed in this state for conduct outside of this state in response to an
18 out-of-state emergency.

19 (2) May impose administrative sanctions upon a practitioner not licensed
20 in this state for conduct in this state in response to an in-state emergency.

21 (3) Shall report any administrative sanctions imposed upon a
22 practitioner licensed in another state to the appropriate licensing board or other
23 disciplinary authority in any other state in which the practitioner is known to
24 be licensed.

25 G. In determining whether to impose administrative sanctions under
26 Subsection F of this Section, a state licensing authority shall consider the
27 circumstances in which the conduct took place, including any exigent
28 circumstances, and the practitioner's scope of practice, education, training,
29 experience, and specialized skill.

30 H. Administrative sanctions may be determined and ordered by the

1 president of a state licensing authority or by his designee.

2 I. Administrative sanctions may include, but are not limited to, the
3 restriction, suspension, or revocation of authority to provide health services in
4 this state.

5 J. Any administrative sanction imposed on the authority of a health
6 practitioner to practice during a declared emergency under the provisions of
7 this Chapter shall be carried out as provided in this Subsection.

8 (1) Registration to provide health services in this state during a declared
9 emergency shall constitute and operate as an authorization and consent by a
10 volunteer health practitioner to the following:

11 (i) Submission to the jurisdiction of the state licensing authority in all
12 matters set forth in its practice act, rules and all applicable laws of this state.

13 (ii) To produce documents, records, and materials and appear before the
14 state licensing authority or its designee upon request.

15 (iii) Immediately restrict or cease, desist, and withdraw from providing
16 health services in this state upon notification by the state licensing authority of
17 a restriction, suspension, or revocation of authority to provide such services.

18 (iv) Designate and appoint the voluntary health practitioner registration
19 system providing notice of registration to the state licensing authority, or a host
20 entity, hospital or affiliate for or at which he or she may be providing services,
21 to receive any notice of administrative sanction provided by a state licensing
22 authority under the provisions of this Chapter or otherwise.

23 (2) Any notice under this Chapter, to be effective, may be provided
24 orally, in writing, electronically, or by any other means practical under the
25 circumstances, to either the health practitioner, volunteer health practitioner
26 registration system providing notification of registration to the state licensing
27 authority, a host entity, or a hospital or affiliate for or at which the health
28 practitioner may be providing services.

29 (3) All rights to a hearing on administrative sanctions imposed by a state
30 licensing authority shall be held in abeyance until no less than thirty days after

1 the termination of the declared emergency.

2 (4) A health practitioner may request an explanation for administrative
3 sanctions on his or her authority to practice or a hearing by the state licensing
4 authority or both, following termination of the emergency declaration, or as
5 otherwise may be provided by applicable emergency orders.

6 (5) In the event a hearing is not requested within sixty days following the
7 date of termination of the emergency declaration, or as otherwise may be
8 provided by applicable emergency orders, administrative sanctions imposed by
9 the state licensing authority shall be deemed to constitute a final order or
10 decision of such licensing authority.

11 §789. Relation to other laws

12 A. The provisions of this Chapter do not limit rights, privileges, or
13 immunities provided to volunteer health practitioners by laws other than this
14 Chapter. Except as otherwise provided in Subsection B of this Section, the
15 provisions of this Chapter do not affect requirements for the use of health
16 practitioners pursuant to the Emergency Management Assistance Compact.

17 B. The governor or the Governor's Office of Homeland Security and
18 Emergency Preparedness, pursuant to the Emergency Management Assistance
19 Compact, may incorporate into the emergency forces of this state volunteer
20 health practitioners who are not officers or employees of this state, a political
21 subdivision of this state, or a municipality or other local government within this
22 state.

23 §790. Regulatory authority

24 The Department of Health and Hospitals, and state licensing authorities
25 may promulgate rules in accordance with the Administrative Procedure Act to
26 implement this Chapter. In doing so, the Department of Health and Hospitals
27 and state licensing authorities shall also consult with and consider rules
28 promulgated by similarly empowered agencies in other states to promote
29 uniformity of application of this Chapter and make the emergency response
30 systems in the various states reasonably compatible.

§791. Limitations on civil liability for volunteer health practitioners; vicarious liability

A. Subject to Subsection C of this Section, a volunteer health practitioner who provides health services pursuant to this Chapter shall not be liable for damages for an act or omission of the practitioner in providing those services.

B. No person shall be vicariously liable for damages for an act or omission of a volunteer health practitioner if the practitioner is not liable for the damages under Subsection A of this Section.

C. This Section shall not limit the liability of a volunteer health practitioner for any of the following:

(1) Willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

(2) An intentional tort.

(3) A breach of contract.

(4) A claim asserted by a host entity or by an entity located in this or another state which employs or uses the services of the practitioner.

(5) An act or omission relating to the operation of a motor vehicle,
vessel, aircraft, or other vehicle.

D. No person that, pursuant to this Chapter, operates, uses, or relies upon information provided by a volunteer health practitioner registration system shall be liable for damages for an act or omission relating to that operation, use, or reliance unless the act or omission is an intentional tort or is willful misconduct or wanton, grossly negligent, reckless, or criminal conduct.

E. In addition to the protections provided in Subsection A of this Section,
a volunteer health practitioner who provides health services pursuant to this
Chapter is entitled to all the rights, privileges, or immunities provided by other
laws of this state.

F. The limitations on liability provided in this Section shall only be
effective during the time period set forth in the initial declaration and shall be

1 retroactive to the precipitating event requiring the declaration of disaster or
 2 public emergency and for a period of thirty days following the end of the initial
 3 declared state of emergency. However, if prior to the expiration of thirty days
 4 following the end of the initial declared state of emergency, the governor
 5 specifically declares that a public health emergency continues to exist as defined
 6 in R.S. 29:762, the limitations on liability shall continue to remain in effect
 7 during the time period established by the governor in a declaration issued
 8 pursuant to R.S. 29:766.

9 §792. Uniformity of interpretation

10 This Chapter shall be so construed as to effectuate its general purpose
 11 to make uniform the law of those states which enact it.

12 Section 2. R.S. 29:735.2(A) is hereby repealed.

13 Section 3. This Act shall become effective on August 15, 2009; if vetoed by the
 14 governor and subsequently approved by the legislature, this Act shall become effective on
 15 August 15, 2009, or on the day following such approval by the legislature, whichever is
 16 later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____